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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,895	02/08/2001	Jiro Yamada	P20576	4682

7055 7590 12/02/2003

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/778,895

Applicant(s)

YAMADA, JIRO

Examiner

Jorge L Ortiz-Criado

Art Unit

2655

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed 11/10/2003 have been fully considered but they are not persuasive.

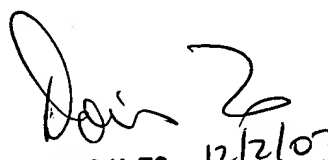
In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argued that Matsumoto et al. does not disclose or suggest, "when said first copy control detector detects no first copy control information, the reproduction of the digital audio data is controlled based on the second copy control information", and also argued that mistakenly the Examiner interpret "using conventionally existing analog signals" as "the reproduction of digital contents data" is controlled based on the second copy control information"

The examiner cannot concur because Matsumoto et al. discloses two different possibilities of to not detect the first copy control information. The first one is by manipulating and rewriting the first copy control information indicating permission of free copying by an unauthorized equipment (See col. 15, lines 16-26; col. 11, Table) and the reproduction of the digital audio data is controlled based on the second copy control information. The second possibility is by applying the signal to a system of digital reproduction /recording apparatuses that employ data transmission using conventionally existing analog input signal, thereby the first copy control information is not detected (Not present) (See col. 15, lines 36-48; col. 11, Table, "Analog input"), and the reproduction of the digital audio data is controlled based on the second copy control information.

Applicant also argued that Matsumoto et al. does not disclose or suggest a "second copy control detector configured to detect the second copy control information from the extracted digital data". Applicants argued that Matsumoto et al. does not detect information from extracted digital audio data (does not judge after decoding)

The examiner cannot concur because Matsumoto et al. clearly discloses wherein the "second copy control detector configured to detect the second copy control information from the extracted digital data", specifically Matsumoto et al. clearly discloses that the judgments are made before or after decoding (extracting) the digital audio data (See col. 9, lines 5-14).


DORIS H. TO 12/2/03
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Fax Cover Sheet

Date: 02 Dec 2003

To: Ching	From: Jorge L Ortiz-Criado
Application/Control Number: 09/778,895	Art Unit: 2655
Fax No.: 703-716-1180	Phone No.: (703) 305-8323
Voice No.: 703-716-1191	Return Fax No.: (703) 308-6743
Re:	CC:
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Comments:

Courtesy copy of an Advisory Action mailed on 12/02/2003.

Number of pages 4 including this page

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